



## Information about appeals for victims of crime

### Who deals with appeals?

The Court of Appeal Criminal Division deals with appeals by defendants against their conviction at the Crown Court or against the sentence they were given at the Crown Court. It also deals with cases referred by the Attorney General if the Attorney considers that the sentence given at the Crown Court was 'unduly lenient'.

The Criminal Appeal Office (CAO), which is headed by the Registrar of Criminal Appeals, provides administrative and legal support to the Court of Appeal Criminal Division. You can contact the CAO Customer Service Officer for help with any queries and for information about the progress of cases – phone 020 7947 6011 or email [criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk). You will find the address for correspondence at the end of these notes.

### What generally happens in an appeal?

The appeal process is made up of two parts.

1. An application for leave (permission) to appeal
2. The appeal itself
  1. For the first stage, the CAO makes sure they have all the case papers needed so that a High Court judge (known as a single judge) can consider the paperwork (usually not in public) and decide whether to grant or refuse leave (permission) to appeal. The judge's decision will be based on whether there may be merit in the grounds of appeal. If so, the judge will grant leave to appeal. The judge, or the Registrar of Criminal Appeals, can also refer a case straight to the Court of Appeal for an immediate hearing in a public courtroom. This means that the court has to decide whether to grant leave. If it does, the appeal will usually follow on immediately at the same hearing.
  2. After leave has been granted or referred, the second stage of the appeal process begins. The CAO will prepare the appeal for hearing in a public courtroom and there will be a barrister representing the defendant (now called the appellant) to speak on their behalf.

However, if the single judge refuses leave to appeal, the applicant will be told this and they may decide to renew the application. Then, the application will be prepared for a public hearing before the full Court of Appeal but legal aid will not be granted for the applicant to be represented by a barrister. At the hearing, the full Court of Appeal may decide to refuse the application. The case is then finished.

If the full court decides to grant an application which has been renewed, the judges will usually give their reasons for their decision but take no further action that day. The case will be adjourned and then prepared for the appeal to be heard at a later date by the full court.

However, on some occasions, when the full Court of Appeal is hearing a renewed application for leave to appeal against a sentence, the court may decide to grant leave to appeal (the first stage of the process), then go on immediately to consider the appeal itself (the second stage of the process).

Any victim personal statement (VPS) which was produced for the Crown Court proceedings should have been sent to the Court of Appeal, with the other trial papers, when the appeal was started and it will be given to the judges. However, a new or updated VPS can be lodged with the CAO if there have been further developments or a change in the effect on the victim. The VPS is evidence in the case. It must be prepared in the right way (by the police or CPS) and a copy given to the defence in good time before the hearing. Also, the court should be told in good time if, exceptionally and in relation to a very serious crime, a victim wants to apply to read out an updated statement in court.

The full (final) hearing of an appeal is held in public and victims and their families can come to court if they want. You can find details about this later in these notes.

## **What happens in court?**

Usually, three judges will hear the case (a Lord Justice of Appeal – who in some instances will be the Lord Chief Justice – and usually two High Court judges). On some occasions, a sentence appeal will be heard by two judges. If a defendant is appealing against a conviction, the prosecuting authority (usually the Crown Prosecution Service (CPS)) will attend the full court hearing and barristers will represent the prosecution and defence.

If a defendant is appealing against their sentence only, they will be represented by a barrister but it is not usual for the prosecution to be represented. However, the Criminal Appeal Office will let the prosecution know that the hearing will be taking place so that they can decide whether or not they want to come along. If the applicant is not going to be represented by a barrister, the prosecution won't be able to have their barrister speak to the court.

The judges read the case papers before they come into court. The Court of Appeal will not go through the case in full, listening to all the evidence. Instead, the Court will hear submissions about the law from the defence barrister (and from the prosecution if they are also attending). It is very rare for there to be any witnesses giving evidence at the Court of Appeal.

It would be extremely rare for someone who has been the victim of an offence (or their family) to be asked to speak or give evidence to the court. If you do have to give evidence as a witness, the prosecution or the police will speak to you about this well before any hearing.

## **Why might a defendant appeal against their conviction?**

If someone is appealing against their conviction, they will be asking the court to quash the conviction because it is 'unsafe'. There are various reasons why they might claim the conviction is unsafe and the following are a few examples.

- New evidence has come to light since the trial which, if it had been available at the time of the trial, would probably have meant the person making the appeal (appellant) would not have been convicted, for example, scientific advances in relation to DNA evidence.
- The judge was unfair in the way they summarised (summed up) the case for the jury, or the judge didn't follow the guidance which is provided for all judges to make sure they summarised the legal points correctly for the jury.
- The judge made a decision of some sort during the case which was not fair or was not correct in law, for example, about whether a particular piece of evidence could or could not be mentioned to the jury.
- The normal procedures weren't followed, which might mean the conviction isn't safe.

## **Why might a defendant appeal against their sentence?**

Again, there may be a number of reasons why the appellant feels the sentence they were given was too long. The following are some examples.

- Looking at guidelines given by the Sentencing Council (or guidance given by the Court of Appeal) for this type of offence, the judge was too severe when sentencing in view of the specific facts of this particular offence.
- The judge was unfair and gave a lesser sentence to one of the co-defendants.
- The judge didn't take enough account of the appellant's particular circumstances, for example, the fact that they had no previous convictions and the offence was committed when they were quite young.

## **How does the Court of Appeal try to make sure victims know there's an appeal going on?**

### **When a new case is received**

When we at the Criminal Appeal Office receive a new application, we send the prosecutor an email. The prosecution will not usually take any action to contact victims at this time

because, in around 70% of cases, leave to appeal will be refused by the single judge and the matter won't go any further.

However, if we receive a phone call from the media or become aware that the newspapers have shown an interest in whether there's going to be an appeal, we will email the Witness Care Unit (WCU) to tell them an appeal has been received.

The WCUs are offices, usually including a mixture of police and CPS staff, which will have been in contact with victims, their families and other witnesses during the Crown Court proceedings. It is their responsibility, under the Code of Practice for Victims of Crime, to liaise with victims and families about appeal cases as well. They will often do this through the police officer who was in charge of the case for the Crown Court proceedings. Depending on the circumstances (including any wish expressed by the victim) the WCU will decide whether to pass on to the victim or their family the up-to-date information about the appeal. The WCU must also tell the probation team, who may also be in touch with a victim or family.

### **If bail is granted before the appeal is dealt with in court**

In all cases which involve a victim directly affected by a crime, we will send a victim notification by email to the relevant WCU if the applicant is granted bail before the appeal is dealt with in court. It is extremely rare for bail to be granted.

### **If a case is going to be dealt with at a hearing open to the public**

As soon as we know that a case is going to be heard in public before the full Court of Appeal, we will send an email to the relevant WCU warning that the case is being prepared for a hearing. This asks the WCU to let us know if they feel you may want to be kept informed of developments and whether or not you will be going to the hearing. This is so that arrangements can be made to accommodate you and your family and make your attendance at court as easy and as comfortable as possible. For example, we can arrange separate seating in court away from a defendant's family.

### **When a date is set for the hearing of the appeal**

Unless we have been told that you or your family do not want to know anything further about the appeal, we will automatically send a victim notification to the relevant WCU to tell them as soon as a date has been fixed for the hearing to take place. We will also tell the WCU if the hearing date changes.

Sometimes a hearing date is set or has to be changed at very late notice (for example, the evening beforehand). As a result, we ask the WCU to give us emergency contact details for you or your family if you are planning to come along to court. This is so we can phone you if anything changes at the last minute.

### **If the Full Court of Appeal makes a final order or grants leave to appeal**

We will send a copy of the court's order to the WCU by email with a victim notification telling the WCU the result of the hearing. This is usually sent on the next working day after the hearing and the victim notification includes a form so that you or your family can ask for a copy of the reasons given in court by one of the judges for their decision (the judgment).

We also add our phone number on the form for the WCU to use in case they need to find out the result of a hearing urgently and don't want to wait for the victim notification to arrive.

## **What do I need to know if I'm coming to court or want to know what happened in court?**

If leave to appeal has been granted, the appellant has the right to be present when the appeal is heard. It is becoming more common for an appellant to be present by watching and listening to the court proceedings over a video link to the prison. However, some appellants who are in custody are brought from prison to attend the hearing. They will sit in a dock throughout the hearing. The dock is at the front of the court room and the defendant will often be clear to see from the public seating area.

The Court of Appeal occasionally hears cases while the judges are visiting a Crown Court but hearings usually take place in courts 4 to 9 in the Royal Courts of Justice, Strand, London WC2A 2LL. The nearest tube station is Temple (Circle and District line) but Chancery Lane (Central line) and Holborn (Central and Piccadilly lines) are also nearby. Our Customer Service team may be able to help with further information – see the contact details mentioned previously.

If we are told that you or your family will be attending and if it is known that the appellant or their family or friends are attending as well, we can make arrangements to seat you separately. Usually this would involve seating you on one side of the courtroom, away from where an appellant's family might sit. Or, arrangements can be made for seating in the upstairs gallery.

A copy of the full court's judgment in a case can be made available to you free of charge. The judgment is usually published around six weeks after the date of the hearing (because it must be approved by the judges before publication).

There is no loudspeaker system at the Royal Courts of Justice to announce which case is going to be heard next. With this in mind, and unless you have any other arrangement in place, you should make yourself known to the court clerk or usher when you arrive. And, some court hearings occasionally start at 10am, rather than 10:30am. Please make sure that you check our website, [www.justice.gov.uk/courts/court-lists/list-appeal-civil](http://www.justice.gov.uk/courts/court-lists/list-appeal-civil), or with our Listing Office (020 7947 6781) what time court starts before planning your journey.

If you have a disability or particular needs, please contact the Customer Service Officer on 020 7947 6011 to discuss the help which may be available. For example, it is possible for us to arrange for use of a wheelchair or provide route maps showing disabled access facilities. You can also find more information about facilities at the Royal Courts of Justice on the website: [www.justice.gov.uk](http://www.justice.gov.uk)

## What other support is available to me?

The Citizen's Advice Witness Service is available if you ask. The Citizens' Advice Witness Service offers practical and emotional support to those who want to attend the appeal. It is managed by a co-ordinator who has access to a small pool of volunteers who already provide a similar service at the Crown Court.

The co-ordinator can be contacted by phone (020 7192 2423 or 0300 332 116) or email ([centralcriminal.cc@cawitnessservice.cjsm.net](mailto:centralcriminal.cc@cawitnessservice.cjsm.net)). The service has access to a small room near the courtrooms in the Royal Courts of Justice so that you can have some privacy and security while waiting for the case to be heard.

The Citizens' Advice Witness Service operate a totally confidential service and their work includes providing:

- basic information on court procedure and layout;
- someone to listen to and empathise with your concerns and anxieties;
- support at the appeal if you ask for it;
- an explanation of legal jargon and decisions; and
- a referral if appropriate, to local community-based services within Victim Support or another agency.

The Citizens' Advice Witness Service cannot offer legal advice, give an opinion on the likely outcome of a case or comment in court on the effects of the crime on you.

## What if I have a comment or a complaint I want to make?

If you have a complaint, you may want to read the HM Courts & Tribunals Service leaflet EX343 'Unhappy with our service – what can you do?', available at [www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure](http://www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure).

Or, you can ask for a copy by speaking or writing to the CAO Customer Service Officer (020 7947 6011 or General Office, Room 240, Criminal Appeal Office, Royal Courts of Justice, Strand, London WC2A 2LL or by email to [criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk)

If you aren't satisfied with the standard of service you have received from us, you should write to the CAO Customer Service Manager using the contact details above. The Customer Service Manager will provide either an acknowledgement or a full response within 10 working days of receiving your complaint. When we reply, we will tell you about our internal complaints process, including timeframes, or tell you how to take the matter further if you aren't satisfied with our response.

If your comment or complaint relates to any of the accommodation facilities, we will pass the details to the Estates Team for them to respond to you.

We have written these notes after consulting the Citizens' Advice Witness Service and Probation Service. If you feel it would be helpful for us to include any more details or if you feel that any information is incorrect or if you have any comments or suggestions for changes to our procedures, please write to us at:

Customer Service Manager

General Office, Room E240

Criminal Appeal Office

Royal Courts of Justice

Strand

London WC2A 2LL

Or email: [criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk](mailto:criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk)

